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**SECRETARY, BOARD OF
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF CRESCENT POINT ENERGY U.S. CORP FOR AN ORDER AUTHORIZING THE FLARING OF GAS IN EXCESS OF THE AMOUNTS ALLOWED UNDER UTAH ADMIN. CODE RULE R649-3-20(1.1) FROM THE GARDNER STATE 12-25-3-2E WELL LOCATED IN THE NW $\frac{1}{4}$ SW $\frac{1}{4}$ OF SECTION 25 IN TOWNSHIP 3 SOUTH, RANGE 2 EAST, USM, UINTAH COUNTY, UTAH

**[PROPOSED]
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

Docket No. 2016-004

Cause No. 131-142

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, February 24, 2016, at approximately 10:45 a.m., in the Auditorium of the Utah Department of Natural Resources Building in Salt Lake City. The following Board members were present and participated at the hearing: Chairman Ruland J. Gill, Jr., Gordon L. Moon, Chris D. Hansen, Susan S. Davis and Carl F. Kendell. Board members Richard Borden and Michael Brown were unable to attend and participate. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying via video conferencing on behalf of Petitioner Crescent Point Energy U.S. Corp ("CPE") were Derek Pimm –Landman, and Katie Matthews – Sr. Development Engineer. Derek Pimm testified as a fact witness and Katie Matthews was recognized by the Board as an expert in petroleum engineering for purposes of this

Cause. David P. Bolda, Esq., of and for Beatty & Wozniak, P.C., appeared as attorney for CPE.

The Division of Oil, Gas and Mining (the "Division") did not file a staff memorandum in this Cause but nevertheless participated in the hearing. Steve Alder, Esq., Assistant Attorney General, appeared as attorney for, and, with the Board's permission, Dustin Doucet, Petroleum Engineer, asked questions on behalf of, the Division.

A letter in support of CPE's Request was filed by the State of Utah School and Institutional Trust Lands Administration, the administrative agency for the mineral interest owner, the State of Utah.

No other party filed a response to the Request and no other party appeared or participated at the hearing.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order in this Cause.

FINDINGS OF FACT

1. CPE is a Delaware corporation in good standing with its principal place of business in Denver, Colorado. It is duly qualified to conduct business in the State of

Utah, and is fully and appropriately bonded with all relevant Federal and State of Utah agencies.

2. This Cause concerned CPE's Request to authorize CPE as operator of the Gardner State 12-25-3-2E Well (the "12-25 Well"), located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, Township 3 South, Range 2 East, USM, Uintah County, Utah, to flare gas in excess of 1,800 MCF per month from the well, being the amount currently allowed without further Board approval under Utah Admin. Code Rule R649-3-20(1.1), until pipeline construction to the well is completed, estimated by December 31, 2016.

3. The 12-25 Well (the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of captioned Section 25) is located on fee surface and State owned minerals and produces from the Lower Green River and Wasatch formations. As of the date of the hearing, there are no spacing orders affecting the captioned lands and the 12-25 Well. The 12-25 Well was drilled under the general well siting rule, being located in the approximate center of the quarter-quarter section. Ownership of the minerals underlying the 40-acre quarter-quarter section are owned 100% by the State of Utah and therefore ownership is uniform and undivided throughout. CPE is the duly designated operator of the 12-25 Well.

4. Pursuant to the terms of the approved application for permit to drill, CPE spud the 12-25 Well on June 9, 2015, at a surface location 1818 feet FSL and 712 feet FWL in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25.

5. Production tests for the Well were run in accordance with the Division's approval. On July 16, 2015, the 12-25 Well began producing from fracs completed July 15th thru July 16th in the Green River and Wasatch and formations. As of February 21, 2016, the 12-25 Well was pumping at 80 BOPD, 15 BWPD and 100 MCFPD with a GOR of 1267 scf/bbl.

6. Chemical analysis of the produced gases from the 12-25 Well reflect that the gases are comprised of primarily ethane and methane with no hydrogen sulfide (H₂S) and very little carbon dioxide (CO₂).

7. A portion of CPE's currently proposed, approximately 2.75 mile pipeline route from the 12-25 Well to the nearest tie-in point traverses tribal owned surface. CPE has represented that it has applied for the necessary rights-of-way with the Bureau of Indian Affairs and Bureau of Land Management, but approval has taken longer than expected. CPE estimates that approval of the right-of-way will take place before the end of the year 2016 and that construction of the pipeline to service the 12-25 Well can be completed and in service on or around December 31, 2016. In order to continue testing and producing the 12-25 Well, and to avoid potential reservoir damage to the well that CPE believes will result if the well is shut-in, CPE must flare in excess of the amounts allowed under Utah Admin. Code Rule R649-3-20(1.1).

8. CPE has also represented that it has and will continue to pay royalties to the production interest owners on the amount of flared gas from the 12-25 Well despite being unable to market and sell the gas due to the lack of infrastructure in place at this time to do so.

9. Based on testimony and evidence, construction of the pipeline is the only economic and practical option to deal with the produced gas, and CPE's commitment to build said pipeline based on current data and results reflects its good faith and due diligence.

10. Based on the current production rates and the other testimony and exhibits provided, the Board has determined that flaring in excess of the amount allowed under Utah Admin. Code Rule R649-3-20(1.1) through to 11:59 p.m. on December 31, 2016, is justified under the circumstances.

11. A copy of the Request was mailed, via US Mail, and properly addressed to all production interest owners in the drilling unit upon which the well is located, to their last addresses disclosed by the appropriate Uintah County realty records. Copies of the return receipts evidencing receipt, or the status of all such mailings, were filed with the board.

12. Notice of the filing of the Request and of the hearing thereon was duly published in the Uintah Basin Standard and Vernal Express on February 2, 2016, and the Salt Lake Tribune and the Deseret Morning News on February 7, 2016.

13. Although present for a majority of the hearing, Board member Chris D. Hansen was not present for the vote. The vote of the Board members present and participating at the conclusion of the hearing for this Cause was unanimous in favor of granting the Request with a set authorization termination date of 11:59 p.m. on December 31, 2016.

CONCLUSIONS OF LAW

1. Due and regular notice of the time, place and purpose of the hearing was properly given to all parties whose legally protected interests are affected by the Request in the form and manner as required by law and the rules and regulations of the Board and Division.

2. The Board has jurisdiction over all matters covered by the Request and all interested parties therein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. §§40-6-5(3)(f) and Utah Admin. Code Rule R649-3-20(5).

3. CPE has satisfied the requirements set forth in Utah Admin. Code Rule R649-3-20(5) for granting its Request.

4. The terms and conditions of flaring beyond the limits authorized under Utah Admin. Code Rule R649-3-20(1.1) for the 12-25 Well are fair, just and reasonable under the circumstances and will not result in waste.

5. CPE has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of the Request as ordered below.

ORDER

Based upon the Request, testimony and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request in this cause, as conformed to the testimony and other evidence provided at the hearing, is granted.

2. CPE is hereby authorized to flare from the 12-25 Well above the 1800 MCF a month limit until 11:59 p.m., December 31, 2016; provided, however, that if flared volumes of produced gas from the 12-25 Well permanently drop below the 1800 MCF a month limit prior to completion of the pipeline, CPE shall prepare and submit a written report to the Division giving notification of the same such that the authorization of flaring in excess of the 1800 MCF a month limit is no longer necessary.

3. Pursuant to Utah Admin. Code Rules R641 and Utah Code Ann. §63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.

4. This Order is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. §63G-4-208 and Utah Administrative Code Rule R641-109.

5. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. §63G-4-208(e) - (g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order issued. Utah Code Ann. §§63G-4-401(3)(a) and 403. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. §63G-4-302, entitled, "Agency Review - Reconsideration," states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, "Rehearing and Modification of Existing Orders," states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of the month.

Id. See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. §63G-4-302 and the deadline in Utah Admin. Code Rule R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

6. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

7. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

DATED this ____ day of _____, 2016.

**STATE OF UTAH
BOARD OF OIL, GAS AND MINING**

By: _____
Ruland J. Gill, Jr., Chairman

CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of March, 2016, I caused a true and correct copy of the foregoing Proposed Findings of Fact, Conclusions of Law and Order to be sent electronically to the following:

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